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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/134,234	08/14/98	HEREN	98478985

QM01/0722

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EXAMINER
LE, H

ART UNIT	PAPER NUMBER
3751	3

DATE MAILED: 07/22/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/134,234

Applicant(s)

Heren et al

Examiner

Huyen Le

Group Art Unit

3751

☒ Responsive to communication(s) filed on Aug 14, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-22 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-8, 10-15, 17, 19, 20, and 22 is/are rejected.

☒ Claim(s) 9, 16, 18, and 21 is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: page 16, line 15, "orifice 100" should be --orifice 92--.

Appropriate correction is required.

2. Claims 5, 8, 14, and 17 are objected to because of the following informalities:

Claim 5, line 2, "member" should be --body--.

Claim 8, lines 1-2, "the actuable fluid flow rate assembly" should be --the fluid flow pattern varying assembly--.

Claim 14, line 20, "cylinder" should be --stem member--.

Claim 17, line 3, "closed end" should be --open end--.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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5. Claim 12 recites the limitation "the inner stem" in line 1. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-3, 8, 10-15, 17, 19, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Lockett.

The Lockett reference discloses a hose nozzle connected to a hose comprising a tubular body 11 having a connector end 13 mateable with a connector end of the hose and a hand grip 30 shaped to fit a user's hand. A fluid flow pattern varying assembly 12 & 30 is in sufficient proximity to the hollow body 11 to allow manual actuation by the index finger and thumb of the user's hand. An outlet member 24 is coupled to the fluid flow pattern varying assembly 12 & 30 and the hollow body 11 which permits fluid flow on the manual actuation of the fluid flow pattern assembly 12 & 30. A cylindrical fluid passage 14 extends through the tubular body 11 permitting fluid to flow from the hose through the tubular body 11 and the hand grip 30 to outlet member 24.

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An inner stem member, which is an extended portion of the tubular body 11, is the opposite end of the tubular body from the connector end 13 as seen in figures 2 and 5. The inner stem member has one open end permitting passage of water therethrough, an opposite closed end, and an orifice 15 permitting passage of water therethrough proximate the opposite closed end. The inner stem member has a beveled cylinder 18 on the closed end and a threaded exterior surface 21 proximate the open end.

An outer sleeve member 12 has an open end with a threaded interior surface 20 intermeshed with the threaded exterior surface 21 of the inner stem member permitting the outer sleeve member 12 to be retracted or extended in relation to the inner stem member by rotation about the inner stem member. The outer sleeve member 12 has an end wall 26 opposite the open end with an aperture with a sufficient diameter to allow the passage of a portion of the beveled cylinder 18.

The hand grip 30 allows the user's hand to hold the tubular body 11 and rotate outer sleeve member 30.

Regarding to claims 2 and 12, the hand grip 30 is plastic which has resiliency and softness characteristics to certain extent.

Regarding to claim 8, the fluid flow pattern varying assembly includes an outer sleeve member 12 and an annular collar member 30 fixedly attached circumferentially around the outer sleeve member 12.

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Regarding to claim 11, the inner stem member includes a beveled cylinder 18 having a cap 17. The beveled cylinder is located opposite the exterior threaded surface 21. A cavity 19 is formed between the inner stem portion 16 and outer sleeve member 12 with fluid access through the orifice 15 in the inner stem member.

Regarding to claim 12 and 22, the inner stem and outer stem member are brass (col. 2, line 18).

Regarding to claim 15, the annular collar 30 is attached to at least a portion of the exterior surface of the outer sleeve member 12 as seen in figure 5.

Regarding to claim 17, a cap is attached to the beveled cylinder 18 on the end opposite the end attached to the open end of the inner stem.

8. Claims 1, 6, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Simon.

The Simon reference discloses a nozzle connected a garden hose comprising a hollow body 10 having a connector end 12 mateable with a connector end of the hose and a hand grip as shaped to fit a user's hand as seen in figure 1. A fluid flow pattern varying assembly 42 is in sufficient proximity to the hollow body 10 to allow manual actuation by the index finger and thumb of the user's hand. An outlet member 16 is coupled to the fluid flow pattern varying assembly 42 and the hollow body 10 which permits fluid flow on the manual actuation of the fluid flow pattern assembly 42. A cylindrical fluid passage extends through the tubular body 11 permitting fluid to flow from the hose through the tubular body 10 and the hand grip to outlet member 16.

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Regarding to claim 6, the hand grip has a top surface following the placement of a user's palm and a bottom surface with three finger notches as seen in figure 1.

Regarding to claim 7, the hollow body 10 is bent at angle relative to the outlet member 16 allowing the water flow to be directed by a user's wrist when the user's arm is in a substantially vertical position.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 3, 4, 5, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lockett.

The Lockett reference discloses a hose nozzle aforementioned with a hand grip 30 made of plastic and tubular body 11 made of metal. Although the reference does not indicate a hand grip made of elastomeric polymer or rubber and the tubular body 11 made of metal, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to select elastomeric polymer or rubber for the hand grip and rigid plastic for the tubular body, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

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*Allowable Subject Matter*

11. Claims 9, 16, 18, and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*


12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen whose telephone number is (703) 306-5504. The examiner is available Monday through Friday from 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Recla, can be reached at (703) 308-1282. The fax number is (703) 308-7766.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist at (703) 308-0861.

**HL**

July 15, 1999

  
**DAVID J. WALCZAK**  
**PRIMARY EXAMINER**